

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FRANCIS JOYCE

CIVIL ACTION

Plaintiff

No. 12-0834

v.

RICHARD DEVASTEY, et al.

Defendants

**ANSWER OF DEFENDANT FEDERAL DEPOSIT INSURANCE CORPORATION  
AS RECEIVER FOR PROGRESS BANK OF FLORIDA  
TO CROSS CLAIM OF ADDITIONAL DEFENDANT MANGO & AUGUST, INC.**

Defendant Federal Deposit Insurance Corporation (“FDIC”) as Receiver for Progress Bank of Florida (“FDIC-R”), by its counsel, hereby answers the Cross Claim of Additional Defendant Mango & August, Inc. (“Mango & August”) as follows:

29. Denied.

**First Defense**

The Cross Clam fails to state a claim upon which relief can be granted against FDIC-R.

**Second Defense**

Mango & August’s Cross Claim is barred in whole or in part by Mango & August’s own consent.

**Third Defense**

Mango & August has failed to mitigate its damages if any.

**Fourth Defense**

Mango & August's Cross Claim is barred in whole or in part by Mango & August's contributory or comparative negligence.

**Fifth Defense**

Mango & August's Cross Claim is barred by its assumption of the risk.

**Sixth Defense**

Mango & August's Cross Claim is barred in whole or in part by the applicable statute of limitations.

**Seventh Defense**

Mango & August's remedies against the FDIC-R are limited as set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1821(d)(2)(A)(ii), (B) & (E).

WHEREFORE, the FDIC-R requests that judgment be entered in its favor and against Mango & August on its Cross Claim.

s/Lisa B. Wershaw

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